

**No.** \_\_\_\_\_  
In the  
Texas Court of Criminal Appeals  
At Austin  
—◆—

FILED  
COURT OF CRIMINAL APPEALS  
11/30/2021  
DEANA WILLIAMSON, CLERK

**No. 01-20-00859-CR**  
In the Court of Appeals for the  
First District of Texas  
At Houston  
—◆—

**No. 1685846**  
In the 230th District Court  
Of Harris County, Texas  
—◆—

**EX PARTE MICHAEL LOWRY**  
—◆—

STATE'S FIRST MOTION FOR EXTENSION OF TIME TO FILE  
PETITION FOR DISCRETIONARY REVIEW  
—◆—

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

THE STATE OF TEXAS, pursuant to TEX. R. APP. P. 10.1, 10.5(b) and 68.2(c), moves for an extension of time within which to file a Petition for Discretionary Review. In support of its motion, the State submits the following:

1. Appellant was charged by indictment with possession of lewd visual material depicting a child. He filed a petition for pretrial writ of habeas corpus alleging that Texas Penal Code Section 43.262 is unconstitutional. The trial court denied habeas relief.
2. On October 26, 2021, a panel of the First Court of Appeals issued a published opinion that reversed the trial court's denial of habeas relief and remanded the case to the trial court to dismiss the indictment.

3. No motion for rehearing has been filed.
4. The State's petition for discretionary review is due on November 29, 2021.
5. The State seeks a thirty-day extension to file its petition for discretionary review.
6. The following facts are relied upon to show good cause for the requested extension:
  - i. This is the State's first request for an extension.
  - ii. The undersigned attorney has been assigned to the following projects since the appellate court's opinion was issued in this case:
    - a. Ex parte Shawn Robinson  
Trial Court Cause No. 1644504  
State's response to pretrial writ application  
completed: November 5, 2021
    - b. Ex parte Destin Spearman  
Trial Court Cause No. 1747440  
State's response to pretrial writ application to be  
submitted: November 30, 2021
    - c. In the Matter of W.A.M.P.  
No. 14-21-00105-CV  
State's brief due: December 1, 2021
    - d. Lucky Ward v. State of Texas  
AP-77,098  
\*\*This appeal is currently abated.
  - iii. The undersigned attorney has had to conduct legal research to assist prosecutors with cases currently pending in the trial courts. Such additional work has interfered with the

undersigned attorney's ability to complete the State's petition for discretionary review in this case.

iv. The undersigned attorney will be out of the office on November 24-26 for the Thanksgiving holiday.

7. This motion for extension is not made for purposes of delay, but that the issues in this case can be addressed completely and properly in briefing to this Court.

WHEREFORE, the State prays that this Court will grant a thirty-day extension of time, from the due date of November 29, 2021, for the undersigned attorney to complete and file the State's petition for discretionary review.

Respectfully submitted,

/s/ Patricia McLean

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## **CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing instrument will be sent by e-filing to:

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Date: November 23, 2021

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